BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	

TO: The Federal-State Joint Board on Universal Service

COMMENTS OF THE
WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION,
MONTANA TELECOMMUNICATIONS ASSOCIATION
AND MONROE TELEPHONE COMPANY

The Washington Independent Telephone Association ("WITA"), Montana Telecommunications Association and Monroe Telephone Company hereby submit opening comments concerning the four proposals advanced by certain members and staff of the Federal-State Joint Board on Universal Service ("Joint Board"). The four plans are the "State Allocation Mechanism" or "SAM" proposed by Joint Board Member Ray Baum, the Three Stage Package for Universal Service Reform ("TSP") proposed by Joint Board Member Billy Jack Gregg, the Holistically Integrated Package or HIP proposed by Commissioner Robert Nelson, and the Universal Service Endpoint Reform Plan or USERP proposed by Joel Shifman, Peter Bluhm and Jeff Pursley. These Comments are filed pursuant to the Federal Communication Commission's Public Notice, FCC 05J-1, released August 17, 2005 ("Public Notice").

Given the short period of time that has elapsed since the Public Notice was issued, even with the recent extension, these Opening Comments will necessarily be summary in nature. WITA intends to file more detailed comments in the next round of comments.

WITA appreciates that the proposals advanced are efforts to address serious concerns about the size of the federal universal service fund. However, establishing new mechanisms that are expensive and may not meet the purposes that Congress had in mind for a federal universal service fund do not advance the cause.

1. State Block Grant Approaches Should Not Be Adopted.

WITA opposes the state block grant concepts contained in the proposals. WITA has previously filed comments with other state associations in this proceeding that explain the problems of a state block program. It is difficult to understand how a state block program can be consistent with the requirements of Section 254(b)(5) that universal service support be sufficient. It is difficult to understand how state block grant approaches can meet the standard contained in Section 254(b)(5) that universal service support be predictable.

Under a state block grant concept, particularly if support is frozen or limited, there are serious issues that are raised about how the funds will be distributed in ways that make the USF support predictable and sufficient. For example, in states where the RBOC is not receiving any support today, if a state block grant concept is adopted and the state determines that some of the funds should go to that RBOC for its rural areas, that necessarily means that there will be less funds available for the rural areas and rural customers served by the rural companies. As an alternative, if the fund is not capped, and non-rural companies begin to receive support, then the size of the fund will rapidly become politically unsustainable. The possibilities of these events occurring under a state block grant program are very real. For example, WITA is aware that

Qwest Corporation is visiting the state commissions in each of the fourteen states in which it operates as an ILEC advocating its support for a state block grant program. Why? Because Qwest sees an opportunity to gain an additional revenue stream. That revenue stream can come into existence only if the money is taken away from investment in the rural areas served by rural companies or by substantially increasing the size of the fund.

WITA does not understand how any state block grant program can be held to be consistent with the current statutory framework for the federal universal service fund. The framework in 47 U.S.C. §254 calls for a national fund, not fifty state funds. The state input into the operation and scope of the federal fund, which is important, is through the Joint Board process rather than administration of the fund itself. It appears that delegation to the states to determine the amount of support an entity receives would be contrary to the standards against sub-delegation that can be found in <u>United States Telephone Association v. FCC</u>, 359 F.3d 554 (D. C. Cir. 2004).

Further, in the experience of WITA's members, state block grant programs are administratively expensive. WITA suggests that the Joint Board undertake a review of some of the existing state block grant programs in other areas to determine what percentage of funds goes for administration of those programs as opposed to the intended use.

2. <u>Freezing Support Levels Discourages Investment</u>.

To the extent that the proposals move to freeze support, such proposals will run contrary to the intent of the federal universal service fund in two ways. First, freezing support will eliminate the incentive for investment in rural infrastructure. The focus will become recovery of existing investment. Companies will be reluctant to risk additional investment in the face of the growing uncertainty of recovering that additional investment. Second, freezing support contains the same problematic issues related to whether such a fund is "sufficient" as required by Congress.

3. Suggestions For Areas of Focus.

WITA believes that the resources of the Joint Board and the affected carriers are better spent in addressing the issues of phantom traffic, broadening the base of contribution as much as possible and focusing on some of the deficiencies in the current system related to the designation and accountability of wireless ETCs.

If the issues involved in phantom traffic can be addressed, even partially, it is a helpful step forward in establishing the correct base from which to consider revised intercarrier compensation mechanisms. To the extent that phantom traffic represents traffic that is not today reported as interstate telecommunications traffic, capturing the traffic will create a broader base from which the universal service fund can be supported.

Broadening the base for USF contribution is an important consideration. The amount of support for the universal service fund is increased to the extent hard and fast rules are established that all carriers, including Internet service providers and those using Voice over Internet Protocol, need to contribute to the fund to the extent they use the public switched telephone network to originate or complete calls which only inures to the benefit of the customers they serve and the products they offer. WITA supports the proposal in HIP that "all carriers that utilize the public switched telephone network be required to contribute to the USF as soon as possible."[1]

Finally, resolving outstanding wireless ETC issues can strengthen the existing program and solve some of the problems with size of the existing fund. Some of these wireless ETC

[1] Public Notice at p. 18.

issues are: (i) wireless ETCs recovering support based upon the rural company cost structure, (ii) the use of billing address for determining customers for whom support is provided even if those customers cannot or do not receive wireless service at that address, and instead use the wireless service primarily at work or for roaming, and (iii) identifying where USF support is being spent by wireless ETCs to ensure it is properly invested in the ETC service area for which it is received.

CONCLUSION

WITA appreciates the opportunity to file comments in this proceeding. WITA appreciates the very difficult and arduous work of the Joint Board and its staff. However, WITA encourages the Joint Board to focus on issues such as phantom traffic, broadening the base of contribution and wireless ETC issues to remedy current and pending problems with the federal USF. A state block grant program should not be adopted.

Respectfully submitted this 30th day of September, 2005.

By: /s/ Richard A. Finnigan
Richard A. Finnigan
Attorney for the Washington
Independent Telephone Association,
Montana Telecommunications Association
and Monroe Telephone Company